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**FEDERAL COMMUNICATIONS COMMISSION**  
**Washington, D.C.**

DISPATCHED

In the Matter of )  
 ) WT Docket No. 96-82  
Amendment of Parts 80 and 87 of the )  
Commission's Rules to Permit Operation of Certain )  
Domestic Ship and Aircraft Radio Stations Without )  
Individual Licenses )

**NOTICE OF PROPOSED RULE MAKING**

Adopted: April 1, 1996 Released: April 12, 1996

**Comment Date: May 10, 1996**

**Reply Comment Date: May 20, 1996**

By the Commission:

**I. Introduction**

1. This *Notice of Proposed Rule Making (Notice)* proposes to revise our rules pursuant to Section 307(e) of the Communications Act of 1934<sup>1</sup> (the "Communications Act"), as amended by Section 403(i) of the Telecommunications Act of 1996.<sup>2</sup> Under amended Section 307(e), the Commission has discretion to remove the individual radio licensing requirement for vessels and aircraft that operate domestically and are not subject to the radio carriage requirements of any statute or treaty (hereafter referred to as "recreational vessels and aircraft"), upon a determination that the public interest, convenience and necessity would be served thereby. With this *Notice*, we propose to revise our rules for the Maritime Services and the Aviation Services to reflect our conclusion that this individual licensing requirement should be removed.

**II. Executive Summary**

2. Pursuant to the 1996 Telecommunications Act, this *Notice* proposes to amend our rules to remove the individual radio licensing requirement and to authorize by rule the operation of radio equipment on recreational vessels and aircraft. We tentatively conclude

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<sup>1</sup> 47 U.S.C. § 307(e)(1995).

<sup>2</sup> Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Telecommunications Act").

that individual licenses are unnecessary for either the safety or operational requirements of these vessels and aircraft. We also tentatively conclude that individual licensing is unnecessary to meet the Commission's regulatory and spectrum management responsibilities with regard to these services, and that eliminating the individual licensing requirement will remove an unnecessary regulatory burden on the public. Finally, the *Notice* implements the proposed rules on an interim basis, pending final action in this proceeding.

### III. Background

3. Prior to enactment of the 1996 Telecommunications Act, Section 307(e)(1) of the Communications Act of 1934 provided the Commission with discretion to license radio stations in the Citizens Band (CB) and Radio Control (R/C) services by rule rather than by individual licenses, upon a finding that the public interest, convenience and necessity would be served by such action.<sup>3</sup> The Commission exercised its discretion with regard to CB and R/C radio stations in the *CB Report and Order*.<sup>4</sup> There, the Commission found that it was in the public interest to remove the individual licensing requirement for CB and R/C operators because no individual testing was necessary, the existence of a data base of licensees did not assist us in enforcement procedures, and individual licensing was costly and administratively burdensome.<sup>5</sup>

4. The 1996 Telecommunications Act amended Section 307 to permit licensing by rule of ship and aircraft radio stations operated domestically when the operators are not otherwise required to carry a radio station.<sup>6</sup> By treaty, radio stations used for international communications, vessels travelling to foreign ports, and aircraft making international flights must be individually licensed. The Communications Act also requires some commercial vessels and aircraft operated domestically to carry radio stations. Although no statute requires recreational vessels and aircraft to be equipped with a radio station, our rules currently require all ship and aircraft radio stations to be individually licensed, including recreational vessels or aircraft radio stations.

5. Currently, applications for individual vessel and aircraft radio station licenses are reviewed only to ensure that the applicant does not violate our prohibition against alien ownership. This licensing process is not used to ensure compliance with type acceptance, transmitter location, or any other station parameter. According to the Commission's licensing records, there are approximately 581,000 ship station licensees in the Maritime Services and

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<sup>3</sup> Pub. Law No. 97-259, Section 113(a), enacted September 13, 1982; 47 U.S.C. §307(e).

<sup>4</sup> *Amendment of Parts 1 and 95 of the Commission's Rules to Eliminate Individual Station Licenses in the Radio Control (R/C) Radio Service and the Citizens Band (CB) Radio Service*, PR Docket No. 82-799, *Report and Order*, 48 Fed. Reg. 24884 (June 3, 1983) ("*CB Report and Order*").

<sup>5</sup> *Id.*, 48 Fed. Reg. at 24885-7.

<sup>6</sup> Telecommunications Act of 1996, Section 403(e)(1).

131,000 aircraft station licensees in the Aviation Services that operate domestically and are not subject to the radio carriage requirements of any statute or treaty.

#### **IV. Proposal**

6. Section 403(i) of the 1996 Telecommunications Act amended Section 307(e)(1) of the Communications Act as follows:

[I]f the Commission determines that such authorization serves the public interest, convenience, and necessity, the Commission may by rule authorize the operation of radio stations without individual licenses in . . . (C) the aviation radio service for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station; and (D) the maritime radio service for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station.<sup>7</sup>

Pursuant to this statutory authority, and for the reasons discussed below, we tentatively conclude that it serves the public interest, convenience, and necessity to authorize, by rule, recreational vessel and aircraft radio stations. Accordingly, we propose to amend our rules to remove the individual radio licensing requirement for these vessels and aircraft. Under our proposal, we would eliminate the requirement that members of the public have an individual license to operate a marine VHF radio, any type of emergency position indicating radio beacon (EPIRB), and/or radar on board a recreational vessel. Similarly, we would eliminate the requirement that members of the public have an individual license to operate a VHF aircraft radio and/or any type of emergency locator transmitter (ELT) on board a recreational aircraft.

7. Our proposal to license recreational vessels and ships by rule is based on our assessment that individual licensing in this context no longer serves the public interest. For instance, one of the primary uses for individual licensing--as a means of identification--can be accomplished without any license document. In the case of recreational vessels, call signs are not necessary because the name of the vessel is often used for domestic identification, and could readily replace the use of FCC-issued call signs. In the case of aircraft, the Commission's individual licensing duplicates that of the Federal Aviation Administration (FAA). The FAA assigns each aircraft an identification number, which then becomes the FCC call sign.

8. Individual licensing also is unnecessary for any regulatory purpose. We perform our regulatory responsibilities for the Maritime and Aviation Services primarily through the rulemaking process to allocate spectrum, to implement requirements for license eligibility.<sup>8</sup>

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<sup>7</sup> 47 U.S.C. §307(e) as amended by the 1996 Telecommunications Act, *supra*, 110 Stat. at 131.

<sup>8</sup> 47 C.F.R. §§80.15 and 87.19.

and to define the types of communications that may be transmitted over the spectrum.<sup>9</sup> In addition, all channels are shared by all licensees, so spectrum management occurs through channel sharing, in real time, or through control exercised generally by FAA or Coast Guard stations. Ship and aircraft radio stations would still be subject to the Commission's Rules and enforcement procedures. Thus, individual licensing is no longer necessary to achieve our regulatory objectives or effective spectrum management.

9. In addition, we tentatively conclude that licensing recreational vessels and aircraft by rule will not have a negative impact on safety at sea or safety of air navigation. Operators of recreational vessels and aircraft are not currently required to pass a test or in any way demonstrate knowledge of radio procedures prior to licensing. Rather, we rely on cooperative efforts by informed radio users to distribute distress communications and safety information among operators of recreational vessels and aircraft. We anticipate that recreational vessel and aircraft operators will continue to learn about the proper use of marine and aircraft radios through instructional courses and through public forums established by various organizations such as the U.S. Coast Guard Auxiliary, the FAA, and the Commission.

10. We also note that adoption of this amendment could eliminate approximately 125,000 license applications filed each year for recreational ship and aircraft stations. Moreover, the proposal would remove the burden of filing applications and the cost of the filing fee from hundreds of thousands of recreational vessel and aircraft owners, as well as remove the administrative burdens associated with the Commission's processing of such applications. We could then redeploy the resources previously used to process these applications to improve our efficiency in other areas. We believe that this more efficient use of Commission resources will ultimately promote the rapid deployment of other services, such as Personal Communications Services (PCS), to the public.

11. Accordingly, we believe that the public interest will best be served by removing the requirements for individual licenses for ship stations navigated on domestic voyages when such ships are not otherwise required to carry a radio station, and for aircraft stations operated on domestic flights when such aircraft are not otherwise required to carry a radio station. In addition, authorizing recreational ship and aircraft radio stations to operate by rule would be consistent with our treatment of CB and R/C radio stations. We request comments on this proposal.

## **V. Interim Rule**

12. Pending the conclusion of this proceeding, which will be expedited, and effective upon release of this *Notice* in the Federal Register, the proposed rules will be implemented pursuant to 5 U.S.C. §553(b). Section 553(b) of the Administrative Procedure Act permits any agency to implement a rule without public notice and opportunity for comment "when

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<sup>9</sup> See 47 C.F.R. §§80.89 and 87.185.

the agency for good cause finds . . . that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest."

13. Here, we find that while receipt of public comment is necessary to make a final determination of public interest regarding the repeal of licensing rules for recreational vessels and aircraft, we find that it is not in the public interest to continue requiring such applications to be filed pending our consideration of the proposed rules. The basis for this finding is that this interim rule will immediately reduce the regulatory burdens on the public and the Commission, and avoid the need to return thousands of applications and regulatory fees if the proposals in this proceeding are ultimately adopted.<sup>10</sup> In addition, we believe that the interim rule is necessary to avoid confusion and regulatory uncertainty in the marine and aviation communities. Moreover, we do not believe that any party will be harmed by implementation of this interim rule, pending completion of this rulemaking proceeding.

14. Accordingly, we hereby implement the proposed rules until the conclusion of this proceeding. We will hold all pending domestic applications in abeyance while the proposals in this *Notice* are being considered. Recreational vessel and aircraft operators, however, must continue to comply with all other applicable requirements in Parts 80 and 87 of the Commission's Rules. In addition, persons travelling to foreign ports, making international flights, or engaging in international communications must continue to be licensed individually. Accordingly, we will continue to process ship and aircraft radio station applications that specify that the radio station license requested is for non-domestic use.

## **VI. Conclusion**

15. Accordingly, we propose to amend Parts 80 and 87 of the Rules to remove the individual licensing requirement for recreational vessel and aircraft stations operating domestically. In addition, we implement the proposed rules on an interim basis, pending the outcome of this proceeding. This proposed action is in the public interest because it would eliminate administrative burdens for both the public and the Commission without having a negative impact on safety or spectrum management in the Maritime and Aviation Services.

## **VII. Procedural Matters**

### **A. *Ex Parte* Rules - Non-restricted Proceeding**

16. This *Notice of Proposed Rule Making* proceeding is a non-restricted notice and comment proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission Rules. *See generally* 47 C.F.R. 1.1202, 1.1203, and 1.1206(a).

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<sup>10</sup> We note that if this proposal is implemented, eligible recreational ship and aircraft licensees may be eligible for a partial refund of user fees pursuant to 47 C.F.R. §1.1159.

## **B. Initial Regulatory Flexibility Analysis**

17. *Reason for action.* The purpose of this *Notice* is to determine, pursuant to the Telecommunications Act of 1996, whether it is in the public interest, convenience, and necessity to amend our rules to remove the individual radio licensing requirement for vessels and aircraft that operate domestically and are not subject to the radio carriage requirements of any statute or treaty.

18. *Objectives.* The objective of this *Notice* is to request public comment on the proposals made herein.

19. *Legal basis.* The authority for this action is the Administrative Procedure Act, 5 U.S.C. § 553; and Sections 4(i), 4(j), 301, 303(r), and 307(e) of the Communications Act of 1934 as amended, 47 U.S.C. §§ 145, 301, 303(r) and 307(e).

20. *Reporting, recordkeeping and other compliance requirements.* Compliance requirements would be reduced if the proposal in this *Notice* is adopted.

21. *Federal rules which overlap, duplicate or conflict with these rules.* None.

22. *Description, potential impact and number of small entities involved.* Most applicants for individual recreational licenses are individuals. However, to the extent any are small entities, the proposed rule would eliminate the burden of filing for individual recreational vessel or aircraft licenses.

23. *Significant Alternatives.* None.

## **C. Comment Dates**

24. Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. Sections 1.415 and 1.419, interested parties may file comments on or before May 10, 1996, and reply comments on or before May 20, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each Commissioner to receive a personal copy of your comments, you must file an original plus nine copies. You must send comments and reply comments to the Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. You may also file informal comments by electronic mail. You should address informal comments to [smagnott@fcc.gov](mailto:smagnott@fcc.gov). You must put the docket number of this proceeding on the subject line ("WT Docket No. 96-82"). You must also include your full name and Postal Service mailing address in the text of the message. Formal and informal comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, Room 239, Federal Communications Commission, 1919 M Street, N.W., Washington D.C. 20554.

25. For further information, contact Ms. Susan Magnotti, at (202) 418-0871, Private Wireless Division, Wireless Telecommunications Bureau, or at [smagnott@fcc.gov](mailto:smagnott@fcc.gov).

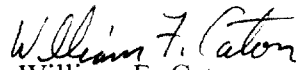
### **VIII. Ordering Clauses**

26. Accordingly, IT IS ORDERED that this *Notice of Proposed Rule Making* is HEREBY ADOPTED.

27. IT IS FURTHER ORDERED that the proposed rules are effective as interim rules upon the release of this *Notice* in the Federal Register, pending the outcome of this proceeding, pursuant to 5 U.S.C. §553(b)(3)(B).<sup>11</sup>

28. IT IS FURTHER ORDERED that the Secretary shall mail a copy of this document to the Chief Counsel for Advocacy, Small Business Administration, the Administrator, Federal Aviation Administration, and the Commander, United States Coast Guard Auxiliary.

FEDERAL COMMUNICATIONS COMMISSION

  
William F. Caton  
Acting Secretary

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<sup>11</sup> Because this interim rule relieves a restriction, it is exempt from the usual Administrative Procedure Act requirement that rules not be made effective earlier than 30 days after publication. See 5 USC § 553(d)(1).

## APPENDIX

### PROPOSED RULES

Chapter I of Title 47 of the Code of Federal Regulations, Parts 80 and 87, are proposed to be amended as follows:

#### **I. Part 80 - Stations in the Maritime Services**

1. The authority citation for Part 80 continues to read as follows:

**AUTHORITY:** Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609; 3 UST 3450, 3 UST 4726, 12 UST 2377.

2. Section 80.13 is revised to read as follows:

#### **§ 80.13 Station license required.**

(a) Except for those excluded in paragraph (c), stations in the maritime service must be licensed by the FCC either individually or by fleet.

(b) One ship station license will be granted for operation of all maritime services transmitting equipment on board a vessel.

(c) A ship station is licensed by rule and does not need an individual license issued by the FCC if the ship station is not subject to the radio equipment carriage requirements of the Communications Act or any other treaty or agreement to which the United States is signatory, the ship station does not travel to foreign ports, and the ship station does not make international communications. A ship station licensed by rule is authorized to transmit radio signals using a marine radio operating in the 156-162 MHz band, any type of EPIRB, and any type of radar installation. All other transmissions must be authorized under a ship station license. Even though an individual license is not required, a ship station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in Part 80.



## **II. Part 87 - Aviation Services**

3. The authority citation for Part 87 continues to read as follows:

**AUTHORITY: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-156, 301-609.**

4. A new Section 87.18 is added to read as follows:

### **§ 87.18 Station license required.**

(a) Except for those excluded in paragraph (b), stations in the aviation service must be licensed by the FCC either individually or by fleet.

(b) An aircraft station is licensed by rule and does not need an individual license issued by the FCC if the aircraft station is not subject to the radio equipment carriage requirements of any statute, treaty, or agreement to which the United States is signatory, the aircraft station is on board a private aircraft, and the aircraft station does not make international flights or communications. Even though an individual license is not required, an aircraft station licensed by rule must be operated in accordance with all applicable operating requirements, procedures, and technical specifications found in Part 87.